

REMARKS

Claim Status

Claims 12-38 are pending, all of which stand presently rejected. Claim 21 is currently amended. New claims 39 and 40 are presented.

New Claims

New claims 39 and 40, which depend, respectively, from claims 12 and 21, more specifically recite stereochemistry of claimed compounds as compared to the broader recitation of the base claims.

Response to Written Description Rejection

Claim 21 is rejected under 35 USC § 112, ¶ 1, as allegedly lacking written description support in the specification for the recited definition of R⁹.

Without conceding the merits of the rejection, Applicants respectfully submit that claim 21, as amended, obviates the rejection by reciting a list of specific alternative substituents, which are the same as those recited in claims 22-38.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Response to Double Patenting Rejections

Claims 12-38 are rejected on the grounds of alleged provisional obviousness-type double patenting in view of each of Appln. Nos. 10/777455, 10/871618, and 10/992564. The rejection states that the instant claims are encompassed by the claims of the cited applications.

Initially, Applicants note that a terminal disclaimer was filed on 29 July 2005 as to Appln. No. 10/777455. Withdrawal of the rejection is therefore respectfully requested.

Applicants respectfully submit that the question of whether later claims are encompassed by earlier claims is not dispositive of whether the later claims are separately patentable. Nonetheless, in order to expedite prosecution, Applicants are submitting herewith terminal disclaimers and the required fees with respect to Appln. Nos. 10/871618 and 10/992564.

Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Conclusion

In view of the above, allowance of the application is respectfully requested. If any issues remain, please contact Applicants' undersigned representative.

Respectfully submitted,

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